

### REMARKS

This application has been carefully reviewed in light of the Office Action dated April 20, 2004. Claims 1 and 3 have been amended. Claims 5 and 6 have been withdrawn as to a non-elected species. Claims 1-4 are now pending in this case. Applicant reserves the right to pursue the original claims and other claims in this and other applications. Applicant respectfully requests reconsideration of the above-referenced application in light of the foregoing amendments and following remarks.

FIG. 2, FIG. 4, FIG. 8, and FIG. 10, stand objected to because of minor informalities. The objection is respectfully traversed. Concurrently filed herewith is a Submission of Replacement Sheets of Drawings (FIG. 2, FIG. 4, FIG. 8, and FIG. 10). In FIG. 2, box 21 has been amended to recite "resumption" and box 22 has been amended to recite "resuming." In FIG. 4, box 50 has been amended to recite "you." Similarly, in FIG. 8, box 70 has been amended to recite "you." In FIG. 10, step S33 has been amended to recite "estimating." Accordingly, the objections should be withdrawn.

Claims 1-4 are rejected under 35 U.S.C. § 102(e) as being anticipated by Kitamura. Reconsideration is respectfully requested.

Claim 1 has been amended to recite "an interruption-probability judging unit making a judgment on whether or not there is a probability of the interruption during a recording of data to said recording medium, according to a result of said test-writing." Kitamura fails to disclose or suggest this claimed feature.

Kitamura discloses in step S25 of FIG. 7, that the judgment as to whether buffer under-run has occurred in the test-writing. In other words, Kitamura discloses that the judgment of the fact that buffer under-run has occurred during the test-writing. In contrast, claim 1, as amended, refers to an interruption-probability judging unit making a judgment of probability as to whether interruption will occur during a recording of data not during test-writing.

Consequently, the rejection of claim 1, as amended, should be withdrawn. Claims 2-4 depend from claim 1 and should be allowable along with claim 1, and for other reasons.

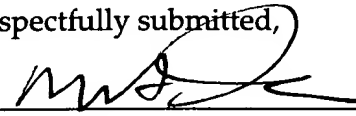
Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Tsukihashi. Reconsideration is respectfully requested.

As discussed previously, claim 1, as amended, refers to an interruption-probability judging unit making a judgment of probability as to whether interruption will occur during a recording of data not during test-writing. Tsukihashi fails to disclose or suggest this claimed feature.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: July 20, 2004

Respectfully submitted,

By 

Mark J. Thronson

Registration No.: 33,082

DICKSTEIN SHAPIRO MORIN &

OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 785-9700

Attorney for Applicant